



WISCONSIN STATE SENATOR

TERRY MOULTON



23RD SENATE DISTRICT

Senator Terry Moulton
Testimony before Senate Committee on Workforce Development,
Small Business and Tourism
2011 Senate Bill 47
April 12, 2011

Chairman, members, I appreciate the opportunity to speak to you today. As a small business owner, I'm proud to author a bill intended to reduce the regulatory burden on small businesses and enhance an effective avenue in which they have a voice in the rulemaking process.

Knowing and complying with the growing list of rules and regulations promulgated by state agencies, has become costly, time consuming and burdensome for all of Wisconsin businesses--in particular small businesses. Senate Bill (SB) 47 is intended to make the Small Business Regulatory Review Board more responsive and clearer for small businesses in order to help them comply with regulations and remain competitive.

In 1983, in a show of bipartisanship, then State Representative Tommy Thompson and State Senator Russ Feingold joined forces to pass Wisconsin Act 90. This Act required state agencies to consider the affect of their rules on small businesses. If a rule has an adverse economic impact on small business, agencies are required to examine methods which would make compliance less costly.

In 2002, the Task Force on Small Business compiled a list of recommendations to improve Wisconsin Act 90 that were aimed at increasing cooperation between small employers and the government agencies that regulate them. The recommendations included the creation of a board, the Small Business Regulatory Review Board, which would review proposed agency rules that impact small business. The creation of the board and other regulatory reforms became part of the Small Business Regulatory Reform Act of 2003 which was also part of Governor Doyle's 'Grow Wisconsin' Initiative.

The board, created by the act, is charged with working hand in hand with state agencies in order to find better ways to analyze the impact of their regulatory actions on small entities and to determine if a rule will have a significant economic impact on a substantial number of small businesses. It also examines existing statutory administrative rules and guidelines and recommending actions or legislative changes to ensure efficient and cost effective regulations. The board is also responsible for finding ways to reduce the negative impact of state rules and regulations while assuring that smaller businesses achieve regulatory compliance without incurring unnecessary expense or inconvenience.

The Board is currently a 17-member panel currently composed of 9 representatives from each the Departments of Administration; Agriculture, Trade and Consumer Protection; Children and Families; Commerce; Health Services; Natural Resources; Regulation and

Serving the 23rd Senate District

Licensing; Revenue; and Workforce Development, 6 small business owners appointed by the governor for 3 year terms, and the chairs of the Assembly and Senate small business committees. The board is staffed by the small business ombudsman from the Office of Regulatory Assistance located in the Department of Commerce.

To ensure the board can have an honest and informed discussion how rules will effect small businesses in Wisconsin, SB 47 revises the makeup of the Small Business Regulatory Review Board by eliminating representatives of state agencies and increasing the number of representatives of small businesses on the board from six to seven.

SB 47 will require state agencies to provide the Board with a copy of proposed agency rules and regulations that may have an economic impact on small businesses. If the Board determines the proposed rule or regulation will have a significant impact on a substantial number of small businesses, the Board may submit suggested changes to minimize the economic impact of the proposed rule or regulation or recommend that the proposed rule or regulation be withdrawn.

Under the bill, state agencies must provide assistance to help small businesses comply with rules and regulations and requires departments to reduce fines and generate alternative enforcement mechanisms for minor violations of rules and regulations by small businesses. It also requires each agency to designate a small business regulatory coordinator and these coordinators, along with the ombudsman clearinghouse, in order to better assist small businesses as they navigate Wisconsin's rules and regulations.

SB 47 is simply intended to reduce the regulatory burden on small businesses and enhance an effective avenue in which they have a voice in the rulemaking process. Small businesses have unique concerns and by increasing cooperation between them and the government agencies that regulate them, Wisconsin will be in a better position to create jobs and grow our existing small employers.

I'd be happy to answer any questions at this time.



John Nygren

WISCONSIN STATE REPRESENTATIVE ★ 89TH ASSEMBLY DISTRICT

State Representative John Nygren Testimony on the Small Business Regulatory Relief Act

*Senate Committee on Workforce Development, Small Business, and Tourism
April 12, 2011*

Good afternoon Chairman Moulton and members of the committee,

I would first like to thank you for bringing this legislation in front of your committee for a public hearing. There is no doubt that the Republican Majorities in each wing of the capitol have made job creation and economic development a priority for this legislative session. We will continue to show the citizens of Wisconsin and people across the nation that we are certainly "Open for Business".

In order to accomplish Governor Walker's goal of creating 250,000 jobs by 2014, we need to take some very bold steps as well as clean up some existing infrastructure in our business climate.

Wisconsin's economy houses some of the finest entrepreneurs in the nation. The Midwestern work ethic is alive and well in Wisconsin's small businesses with nearly 98% of the business in Wisconsin considered "small businesses". Our state's economy and its people depend on these businesses for consumption, employment, and economic development.

The Small Business Administration states that small businesses, which employ nearly 52% of Wisconsin's workforce and make up nearly 98% of the state's businesses, are the "key to the state's well-being." Some of the largest industries in regards to employment for small businesses include healthcare, manufacturing and retail trade.

Also, over the last several years, small business ownership has continually increased for minority and woman owned businesses. Small business ownership, among African Americans, has increased by nearly 68% since 2000.

But small business owners all over Wisconsin will continually cite two problems with the economic climate in Wisconsin...taxes and excessive regulation. Today, we will concentrate on the regulation portion of this equation. The National Federation of Independent Businesses has found that complying with federal regulations costs small businesses nearly \$11,000 per employee each-and-every year.



John Nygren

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In 2010, federal agencies released 43 new rules costing small businesses a total of \$28 billion –the highest level since 1981.

The Small Business Regulatory Relief Act, SB 47, makes positive changes to the makeup of the small business regulatory review board, establishes a much more effective level of jurisdiction over rules, and requires agencies to be flexible with small businesses when enforcing administrative rules.

First off, the Small Business Regulatory Review Board is a board, comprised of 17 members, nine (9) representing government agencies, six (6) representing small business owners, and two (2) of which represent the respective small business committees in each house of the legislature. This board was created in 2003 as part of Governor Doyle's "Grow Wisconsin" initiative.

The Small Business Regulatory Review Board is designed to provide small business owners with an opportunity to effectively and efficiently voice concerns over administrative rules. The recommendations and changes made by the board are not binding and simply get referred back to the agency in which the rules were promulgated. The agency can then decide whether they would like to utilize or disregard the recommendations made by the board.

Unfortunately, over the years, small business representatives on the board have had their voices drowned out from the government bureaucrats who are in the majority (9 agency members, 6 small business members, and 2 members of the legislature). This bill simply allows those small businesses to have an open and honest discussion about proposed rules. The bill eliminates the requirement for a representative from each government agency to be appointed to the board and increases the number of small business representatives by one (1) (7 small business members and 2 members of the legislature).

Currently, the chairs of both the Senate and the Assembly committees on small business are appointed to the board. This bill keeps that requirement.

Secondly, the bill changes requirements relating to which proposed rules are forwarded onto the Small Business Regulatory Review Board. Currently, a rule that has been deemed by the rule-making agency to have a "significant" impact on small business must be referred to the board. I believe that small business owners, not government agencies, know best how these rules will affect their industries.

In essence, we should allow small business owners to determine whether or not the rule has a significant impact on their business or other small businesses. This bill requires **ALL** proposed rules



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that have any sort of impact on small business to be referred to the board. Then, the board determines if the rule has a significant impact on a substantial number of small businesses. If so, it is taken up by the board. If not, it is referred back to the rule-making agency.

Lastly, the bill requires agencies, to the extent possible, to mitigate potential effects of administrative rules by:

- 1.) Providing assistance to small businesses so they can comply with rules promulgated by the agency.
- 2.) Establish reduced fines and alternative enforcement mechanisms for minor violations of administrative rules.
- 3.) Consider the use of a written warning or alternative penalty against a small business found to be in violation of certain rules.

Again, I would like to thank you for scheduling this bill to be heard before your committee this afternoon. Also, I would like to thank Chairman Moulton for taking the lead on this legislation in the Wisconsin State Senate as well as other members of the committee that have already endorsed this legislation.

I would be more than willing to entertain any questions you may have at this time.

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Wisconsin

Statement Before the Senate Committee on Workforce Development, Small Business, and Tourism

By

**Bill G. Smith
State Director
National Federation of Independent Business
Wisconsin Chapter**

**Tuesday, April 12, 2011
Senate Bill 47**

Mr. Chairman and members of the Committee, I appreciate the opportunity to share with you a statement on behalf of the 12,000 members of NFIB located throughout our state.

In 1980, President Jimmy Carter signed into law the then historic Regulatory Flexibility Act.

However, since 85 percent of Wisconsin firms have fewer than 20 employees, and three out of every four employ fewer than 10 workers, we quickly learned the need for more effective regulation of small business did not stop at the federal level.

In 1983, Governor Tony Earl signed into law a state version of the Regulatory Flexibility Act as part of the 1983 special session on economic development.

In 1996, and again in 2002, the federal Regulatory Flexibility Act was amended to improve it's effectiveness and efficiency in meeting the goals of the federal regulatory flexibility law.

In 2003, the Legislature enacted into law the Small Business Regulatory Fairness Act, the first revisions to Wisconsin's regulatory flexibility law which was enacted in 1983.

These laws call on government to be more sensitive to how regulations impact small business. The goal of the regulatory flexibility concept is to help government understand and address the inequity and basic unfairness of regulating Al's Garage in Rhineland the same as Briggs and Stratton in Milwaukee.

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Tuesday, April 12, 2011

To illustrate the disproportionate impact of the regulatory burden on small business, the Small Business Administration says businesses with fewer than 20 employees on average pay 36 percent more to comply with federal regulations than big business. Compliance with environmental regulations cost 364 percent more in small firms than in large firms. The cost of tax compliance is 206 percent higher in small firms than the cost in large firms. The compliance cost per employee for small manufacturers is more than double the compliance cost for medium-sized and large firms (110 percent and 125 percent, respectively).

According to SBA's Office of Advocacy, small business spends up to 80 percent more per employee complying with regulations than big business. And while small business employs 53 percent of the workforce, small business shoulders about 63 percent of the total cost of regulations.

The 2003 Small Business Regulatory Fairness Act, signed into law by Governor Jim Doyle, included the creation of a Small Business Regulatory Review Board, and was also the first revisions to the Wisconsin regulatory flexibility law since enactment in 1983.

Senate Bill 47, the Small Business Regulatory Relief Act, includes provisions that will streamline the regulatory review process, modify the membership of the Small Business Regulatory Review Board.

We believe this legislation addresses the procedural problems encountered by the Small Business Regulatory Review Board, and would also restore and promote a regulatory process that is fairer, simpler, and more cost effective for small business and the regulators.

In today's regulatory environment, small business owners often find themselves unsure of their compliance status, unaware of new regulations under development, uninvolved in the rule-making process, and uncertain of who to call for help within a state agency.

Studies by NFIB show a majority of our members find it is impossible to have knowledge and be in compliance with all the regulations that affect their business. And one in five small business owners believe the cost of regulations has caused them to eliminate jobs, or forced them to postpone the growth or expansion of their business.

Faced with unprecedented economic challenges, it is essential that regulatory barriers to small business growth and job creation be removed.

Senate Bill 47 will significantly improve the regulatory process, increase regulatory compliance, promote more cost effective regulatory enforcement, and strengthen Wisconsin's economy by reducing the negative impact of regulations on our Main Street small businesses.

We are grateful to Senator Moulton, Representative Nygren, and all the co-sponsors of this important legislation, and **I urge members of the Committee to act promptly and favorably for passage.**

Thank you for your consideration.



**Testimony submitted on Tuesday, April 12, 2011 before the
Senate Workforce Development, Small Business and Tourism Committee
in support of 2011 Senate Bill 47**

Good afternoon.

Chairman Moulton and members of the Senate Workforce Development, Small Business and Tourism Committee, my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. On behalf of WIB and its 12,000 members, I am here to testify in support of 2011 Senate Bill 47.

Small, independent businesses must comply with a vast array of government rules and regulations. According to a recent report by the Small Business Administration, small businesses spend more than \$10,500 per employee every year to comply with government rules and regulations. Needless to say, Wisconsin Independent Businesses supports regulatory relief and reform.

We appreciate the efforts of legislators this session to provide more accountability and transparency to the state government rule-making process. Accountability and transparency are important, but so too is meaningful input, particularly for those rules that impact the bottom line of small businesses. SB 47 achieves that objective.

Under this bill, a Board comprised of small business owners will review proposed rules and make their own determination of whether the proposed rule has a significant economic impact. If the Board determines the proposed rule has a significant economic impact, the Board may submit suggested changes to reduce the economic impact of the proposed rule or recommend that the proposed rule be withdrawn. This upfront input from small businesses will help to ensure that the costs as well as the benefits of proposed state government rules and regulations are taken into account.

Beyond that, this legislation recognizes the challenges small businesses face every day as they try to comply with state government rules and regulations. Many of them can't afford to have in-house counsel or a full-time compliance officer to advise them on compliance matters. These duties are added to the long list of other daily responsibilities handled by the small business owner. Providing them with a single point contact person at each state agency who they can call to answer compliance-related questions will help reduce this burden.

Finally, WIB appreciates the bill's provision to require state agencies to establish reduced fines and alternative enforcement mechanisms for minor violations of rules and regulations by small businesses. Good faith efforts on the part of small business owners to comply with state government rules and regulations should be recognized by regulators. In turn, regulators should have the flexibility to take the steps necessary to bring small businesses into compliance.

Thank you.

